

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5503 OF 2005

Chandrakant Khandu Bhandari.

... Applicant.

Versus.

State of Maharashtra.

... Respondent.

Shri Uday Warunjikar for the Applicant.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 13th Sept., 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. The application for bail made by the Applicant before the Sessions Court has been rejected by order dated 12th July 2005. In the present Application, the Applicant has relied upon affidavits filed by Laxman Kenu Jadhav and other persons in support of the plea of the Applicant of alibi. The said affidavits have been affirmed after the order was passed on the bail application made by the Applicant by the Sessions Court.

3. The learned A.P.P. submitted that the affidavits have been belatedly executed and therefore, the same cannot be considered. He submitted that if the said affidavits are to be considered, opportunity will have to be granted to the Investigating Officer to deal with

the said affidavits. He submitted that the Sessions Court should be directed to reconsider the Application.

4. Considering the fact that the said affidavits which are annexed as Exh.G (collectively) to this Application were not before the Sessions Court, it is desirable that the Sessions Court should consider the said affidavits. Opportunity will be available to the Investigating officer to deal with the said affidavits. With a view to enable the Sessions Court to deal with the said affidavits, the Application made by the Applicant before the Sessions Court will have to be reconsidered.

5. Hence the following order is passed:

(i) The order dated 12th July 2005 passed by the learned Addl.Session Judge, Pune, in so far as it relates to Application No.1094 of 2005 is set aside and the learned Judge is directed to reconsider the application after allowing the Applicant to file the affidavits which are filed along with this application.

(ii) The office will return the original affidavits (Exh.G-Collectively) to the Advocate for the Applicant after the Advocate for the Applicant submits verified

true zerox copies of the said affidavits.

- (iii) The learned Additional Sessions Judge will decide the Application made by the Applicant on merits after considering the relevant material including the said affidavits in accordance with law. The Application will be decided within a period of three weeks from the date of production of an authenticated copy of this order.
- (iv) All contentions of the parties are kept open.
- (v) The parties and the concerned Court to act on an authenticated copy of this order.

Judge.